IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 24TH OCTOBER 2007 / 2ND KARTHIKA 1929

OP.No. 34539 of 2002(S)

PETITIONER:

D. NESA PAUL, CATERING CLEANER
(RETIRED), VEGETARIAN REFRESHMENT ROOM,
SOUTHERN RAILWAY, ERNAKULAM SOUTH,
RESIDING AT THERUMUVILLA VEDU,
PORAI, THIKKURICHI P.O., KANYAKUMRI DISTRICT,
TAMIL NADU.

BY ADV. SRI.P.K.MADHUSOODANAN

RESPONDENTS:
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1. THE SENIOR DIVISIONAL PERSONNEL
OFFICER, SOUTHERN RAILWAY,
THIRUVANANTHAPURAM-14.

2. UNION OF INDIA, REPRESENTED BY
ITS SECRETARY, MINISTRY OF RAILWAYS,
RAIL BHAVAN, NEW DELHI.

3. THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL, ERNAKULAM BENCH, ERNAKULAM.

BY ADV. SRI.K.V.SADANANDA PRABHU,SR.SC.RAILWAYS
SRI.ALEXANDER THOMAS, SC. RAILWAY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO. 34539/2002

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE REPRESENTATION SUBMITTD BY THE PETITIONER TO THE IST RESPONDENT DT. 5.7.02.

EXT.P2:- COPY OF THE DUTY CARD PASS MENTIONED IN EXT.P1.

EXT.P3:- DO. DO.

EXT.P4:- COPY OF THE CERTIFICATE DT. 1.6.01 ISSUED BY THE CATERING SUPERVISORS OF VENAD EXPRESS UNDER WHOM THE PETITIONER HAD WORKED.

EXT.P5:- COPY OF THE CERTIFICATE DT. 3.3.02 ISSUED BY THE CATERING SUPERVISORS OF VENAD EXPRESS UNDER WHOM THE PETITIONER HAD WORKED.

EXT.P6:- COPY OF THE RELEVANT EXTRACT OF THE ORIGINAL APPLICATION FILED BY THE PETITIONER.

EXT.P7:- COPY OF THE FINAL ORDER DT. 6.6.02 IN OA. 384/02 OF THE 3RD RESPONDENT.

/TRUE COPY/

P.S. TO JUDGE

tss

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

O.P. NO. 34539 OF 2002-S

Dated 24th October, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner was a casual Catering Cleaner under the Southern Railway since 1979. He was granted temporary status with effect from 2.8.1987. Thereafter, he was absorbed in Group D post with effect from 31.3.1997. He retired from service on 31.3.2001. For the purpose of granting pension, half the service rendered by him after he attained temporary status and the full service rendered by him in Group D post were taken together. The same will come to only 8 ½ years' service. Based on the said computation of service, he was granted terminal benefits. But, he was not eligible for monthly pension, as he did not have the minimum qualifying service. Feeling aggrieved by the non-grant of monthly pension, the petitioner filed Ext.P1 representation on 5.7.2001 before the competent authority, claiming that he was liable to be granted temporary status on completion of 120 days' service, as per the relevant provisions in the

Railway Establishment Manual. When that application was not considered, he approached the Central Administrative Tribunal by filing O.A.No.384/2002. The said O.A was heard and dismissed by the Tribunal at the admission stage itself, by Ext.P7 order. The CAT took the view that if the petitioner was aggrieved by the non-grant of temporary status in time in accordance with the relevant regulations, he should have approached the competent authority then and there and redressed his grievance. He cannot agitate that grievance after his retirement. In that view of the matter the CAT dismissed the O.A in limine. This Original Petition was filed challenging Ext.P7.

2. According to the petitioner, the right to get temporary status on completion of 120 days' service is a statutory right. The respondents were bound to grant it and he can claim that benefit at any time. We consider it difficult to agree with the contention of the petitioner. The right flowing from the regulation should have been asserted by the petitioner as and when it was denied to him. The alleged wrong done to him some time in 1980 is sought to be raised in 2001. We feel that the Tribunal has rightly declined to entertain the O.A. The learned counsel for the petitioner submitted that at any rate, the Tribunal should have directed the consideration of Ext.P1 representation. We feel that it being a representation raising a very stale

claim, there cannot be any direction to consider that representation.

In the result the original petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR,JJ.

O.P. NO.34539/2002-S

JUDGMENT

24.10.2007.